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Summary record of the second part (public)* of the 3567th meeting
Held at the Palais Wilson, Geneva, on Friday, 2 November 2018, at 10 a.m.

Chair: Mr. Shany

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* The summary record of the first part (closed) of the meeting appears as document CCPR/C/SR.3567.

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The public part of the meeting was called to order at 11.15 a.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Methods of work (*continued*)

1. **The Chair** invited Ms. Cleveland to present the draft report of the informal working group that had been established to review the process of preparing lists of issues and lists of issues prior to reporting.

2. **Ms. Cleveland**, speaking in her capacity as Chair of the informal working group on lists of issues, said that the report drew on insights from the members of the secretariat responsible for assisting the Committee and other treaty bodies, the views of the Centre for Civil and Political Rights and written material from various sources. Its aim was to review current practice and recommend ways in which to improve the preparation of lists of issues with a view to enhancing the quality and effectiveness of the reporting process and ultimately strengthening States parties' implementation of the Covenant.

3. The importance of lists of issues lay in the fact that they framed the written and oral exchanges that took place between the Committee and States parties and informed the concluding observations that resulted from that dialogue. The working group therefore considered that lists of issues should be drafted with the concluding observations in mind. In preparing the list of issues for a particular State party, the secretariat relied on a detailed country file containing relevant source materials. However, the secretariat did not have a standardized approach for the formulation of the lists, and the guidelines it had developed for that purpose in the past were apparently no longer in use. The secretariat did produce an annotated version of the list of issues that incorporated references to information sources, which Committee members found useful during the review process. Country files typically included the report of the State party, the Committee's prior concluding observations, Views and follow-up reports, concluding observations issued by other treaty bodies and submissions from international organizations and civil society. The working group had noted some inconsistency in terms of how individual members of the secretariat approached the preparation of lists of issues, along with some measure of path dependency and repetition of issues already covered by the Committee and other treaty bodies.

4. In the interest of avoiding unnecessary duplication, the working group therefore recommended that country files should include references to previous concluding observations by other treaty bodies and an indication of what future reviews by other treaty bodies were scheduled, if any.

5. The working group had observed that the Committee had an uneven approach to the issues it covered: it consistently addressed national human rights institutions, gender equality and the wage gap, torture, trafficking in persons and the corporal punishment of children, regardless of whether those issues were also being addressed by other treaty bodies. Less attention was given to the rights of children and persons with disabilities, forced labour issues other than trafficking and freedom of association. The Committee also tended to under-examine topics which were not being covered by other treaty bodies and which might be regarded as a priority, such as issues related to privacy, freedom of expression, elections and corruption.

6. Accordingly, the working group recommended the development of detailed guidelines for the preparation of lists of issues and the preparation of a checklist of topics in order to ensure greater consistency and more reliable coverage of important concerns. Such a checklist would serve only as a starting point, however; careful refinement and customization would be required to make lists of issues relevant to the particular situation of the State party concerned. The working group also recommended that, in subject areas where the Covenant overlapped with other treaties, the Committee should prioritize issues that were of importance for the State party, while taking account of reviews by other treaty bodies. The scope of the list of issues could be narrowed by refraining from repeating questions that had been raised previously and that the State party had substantively addressed. Matters that had already been or were likely to be addressed by other treaty bodies could be given less attention in the list of issues but should not be omitted altogether

in case the Committee needed to raise them during the dialogue. The Committee had an obligation to increase its scrutiny of issues that had not been addressed in other treaty body reviews and that might not be covered elsewhere because a State had not ratified a particular treaty.

7. Lists of issues were usually organized as clusters of questions and began with the status and implementation of the Covenant in the domestic legal system before moving on to substantive rights, roughly in the same order as the articles of the Covenant. The Committee's concluding observations and the lists of issues of other treaty bodies tended to follow a similar pattern. Although some Committee members had advocated beginning the lists of issues with questions regarding the substantive protection afforded for the rights deemed to be most important for the State party, the working group believed that it would be difficult to order issues by priority. However, the Committee might consider whether it would prefer to have questions on substantive rights come before those relating to structural and institutional concerns.

8. It had been observed that civil society organizations participated less actively in the preparation of lists of issues than in the oral examination stage, either because of a lack of understanding of how lists of issues shaped the review process or because they were not duly informed of the opportunity to provide input. Considering that greater civil society participation would help the Committee better identify priority issues to be raised with States parties, the working group recommended that non-governmental organizations should be given timely notice of the planned preparation of lists of issues. Lists of issues should also indicate the due date for the State party's reply.

9. The working group generally supported the Committee's previous decision that lists of issues should not exceed 25 questions, save in exceptional cases justifying a list of not more than 30 questions. However, the number of questions was less important than ensuring that they were sufficiently detailed and that they prioritized the main issues facing the State party. The working group also felt that the lists could be made more concise by avoiding repetitive language wherever possible.

10. The working group recognized that, while the secretariat faced severe time constraints, its staff were able to develop expertise in the preparation of lists of issues over time. It therefore recommended that the head of the responsible unit of the secretariat should provide overall guidance for the preparation of draft lists of issues with a view to ensuring consistency and quality and should review them substantively and technically before presenting them to the country rapporteur. Observing that country rapporteurs received little guidance and that task force members only had a one-hour meeting in which to provide input, the working group recommended that country rapporteurs and task force members should play a more active role in defining the scope and priorities of lists of issues and in submitting substantive and technical comments on the drafts.

11. The working group had noted that the information contained in the State party's replies to the list of issues were what the Committee members found most useful during the review. Therefore, given that lists of issues prior to reporting were permitted a more generous word count and in order to expedite the process, the working group recommended that the simplified reporting procedure should become the default practice. States parties could then be allowed to opt out of it if they so wished. In some cases States parties failed to respond to lists of issues in a timely manner, with the result that the lists sometimes became out of date and had to be redrafted before the review. The working group therefore recommended that lists of issues should state the date of the review, which should then be adhered to in all but exceptional circumstances.

12. Lastly, the report highlighted practices adopted by other treaty bodies. For example, the lists of issues of the Committee against Torture were prepared by two country rapporteurs; the Committee on the Elimination of Racial Discrimination identified themes rather than specific issues; and the Committee on the Rights of the Child consulted the representatives of United Nations agencies, non-governmental organizations and children in order to identify pressing issues. The working group was open to further suggestions and stood ready to begin work on a potential checklist of topics for inclusion in lists of issues, if the Committee so wished.

13. **The Chair** invited the Committee members to comment on the contents of the draft report of the informal working group on lists of issues.

14. **Mr. Ben Achour** said that, although the document was available only in English, he nevertheless found it very clear and comprehensive and recommended that it should be translated into the other working languages and distributed to all new Committee members. He proposed that lists of issues and concluding observations should include a request for States parties to provide specific information on their implementation of the Committee's Views on communications concerning them.

15. **Mr. de Frouville** said that, especially in the light of the Committee's newly adopted rules of procedure, the report should be translated into the Committee's other working languages. He welcomed the proposal that consideration should be given to whether a State party had recently reported to other treaty bodies or was to do so in the near future. The Committee could thus focus its list of issues on questions of priority in relation to its work without omitting areas that had not been covered by other committees. He hoped that a common calendar would be available by 2020 to facilitate coordination among the treaty bodies in that regard.

16. The role of the rapporteur was particularly important in ensuring a proper distribution of issues among the task force members and thus avoiding repetition. He did not think it was realistic to propose extending the meeting time available to the task forces or to ask members to provide comments on draft lists of issues prior to those meetings. He welcomed the proposal to make the simplified reporting procedure the default option, although it was understood that initial reports would not be covered by that system. It would be useful to use the report as a basis for developing guidelines for the preparation of lists of issues and to produce a list of standard questions; to that end, it would be helpful to draw on the extensive experience of the Research and Right to Development Division of the Office of the United Nations High Commissioner for Human Rights.

17. **Ms. Pazartzis** said that she agreed that a list of standard questions would be helpful, provided that specific issues for each country were also included. She strongly supported the recommendation that the Committee should focus its questions on areas that fell under its primary or exclusive mandate. She also supported Mr. Ben Achour's proposal to include a specific section on the implementation of the Committee's Views. Coordination by the rapporteur of the questions to be asked by the task force members would allow States parties more time for their responses.

18. **Mr. Santos Pais** said that it would be useful if the documentation on reporting States, including the information from national human rights institutions and civil society organizations, was made available earlier than was currently the case. Members should also endeavour to consult previous reports from the State party in order to gain an appreciation of how much progress it had made and to see what questions had already been covered and could therefore be dispensed with during the upcoming dialogue. To avoid duplication, the questions to be asked during the dialogue should be defined well in advance; it would also be very helpful if they were provided to the delegations in writing in order to ensure that any omission in States parties' responses was not simply an oversight.

19. **Mr. Zimmermann** said that he agreed that the simplified procedure should be used as the default option but suggested that the Committee should endeavour to coordinate that change in practice with the other treaty bodies in order to avoid confusion.

20. **Ms. Waterval** said that she agreed that task force members should coordinate their questions and supported the proposal to provide delegations with the questions in writing. She was also in favour of having the list of issues prior to reporting be the default option; it could be used even in the case of initial reports, as States parties might welcome such guidance.

21. **The Chair** said that the members seemed to support the ideas presented in the report. Given that some of the recommendations would have implications for the workload of the secretariat, he would not suggest proceeding to its formal adoption, but instead took it that the members wished to authorize the next Bureau to discuss the report and its

recommendations, to request the secretariat to have it translated into the Committee's other working languages and to ensure that it was distributed to all new Committee members.

22. *It was so decided.*

The discussion covered in the summary record ended at 12.20 p.m.